

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

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IN THE MATTER OF :
BELL LABORATORIES, DIVISION :
OF AMERICAN TELEPHONE & :
TELEGRAPH CO., :
BIRD & SON, INC., :
NL INDUSTRIES, INC., : WITHDRAWAL OF ORDERS AS TO
RUSTY SCUPPER RESTAURANT, and : CERTAIN RESPONDENTS
TOWNSHIP OF MAHWAH, :
Index No. II-CERCLA-50102
Respondents. :
Proceeding Pursuant to §106 :
of the Comprehensive Environ- :
mental Response, Compensation :
and Liability Act, 42 U.S.C. :
§9606 :
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FINDINGS

1. On December 4, 1984, an Administrative Order, Index No. II-CERCLA-50102 (hereinafter, "the Order"), was issued to the above-captioned Respondents and 30 other Respondents by the United States Environmental Protection Agency ("EPA") pursuant to the authority vested in the President of the United States by §106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

("CERCLA"), 42 U.S.C. §9606(a), delegated to the Administrator of the EPA by Executive Order 12316, 46 Fed. Reg. 42237 (August 14, 1981), and redelegated to the Regional Administrator, EPA Region II, on March 17, 1983. Under the terms of the Order, the Respondents were instructed to undertake certain immediate corrective actions at the Duane Marine Salvage Corporation facility in Perth Amboy, New Jersey, an abandoned hazardous waste disposal facility.

2. On December 18, 1984, a letter supplementing the Order (hereinafter, "the Supplemental Order") was issued to the above-captioned Respondents and 30 other Respondents.

3. On various dates subsequent to December 4, 1984, a number of Respondents (hereinafter, "the objecting Respondents") appeared in this proceeding by their respective counsel or through officers of their respective corporations and submitted information to EPA that supplemented information already in the possession of the Agency which initially formed the basis for including such corporations as Respondents in the above-captioned proceeding. The objecting Respondents requested that the Order of December 4, 1984, be withdrawn as to them in that, for reasons adequately supported in documents submitted by each of the objecting Respondents to the EPA, they were not responsible parties for the release or threatened release of hazardous substances, pollutants,

or contaminants to the environment from the Duane Marine facility.

4. Subsequently, between December 4, 1984, and January 21, 1985, communications were exchanged between counsel or representatives for the objecting Respondents and staff of the Office of Regional Counsel and the Emergency and Remedial Response Division, EPA Region II, in which the objecting Respondents set forth reasons why they believed the information in the possession of EPA, as supplemented by additional information or explanations provided by the objecting Respondents, failed to establish that they were potentially responsible parties under CERCLA for the environmental conditions to which EPA's December 4, 1984, Order was addressed.

5. The documents submitted by the objecting Respondents have been evaluated by EPA's Office of Regional Counsel and by the Emergency and Remedial Response Division, and the respective Directors of those offices have recommended that the proceeding initially commenced by EPA should be withdrawn as to certain of the objecting Respondents.

WHEREFORE, on the basis of a consideration of the entire record of this proceeding, the above-captioned Order and the Supplemental Order of December 18, 1984, are hereby WITHDRAWN with respect to the following Respondents:

1. Bell Laboratories, Division of American Telephone & Telegraph Co.
2. Bird & Son, Inc.
3. NL Industries, Inc.
4. Rusty Scupper Restaurant
5. Township of Mahwah

Effective this 23 day of January, 1985.


CHRISTOPHER J. DAGGETT
REGIONAL ADMINISTRATOR

1/23/85
DATE

U.S. Environmental Protection Agency
Region II